

3. Brent Embrey is the Co-Director of the Consumer Protection Division, Office of the Attorney General (“Division”), pursuant to Ind. Code § 4-6-9-2, and is the ultimate authority of the Division pursuant to Ind. Code § 4-21.5-1-15.

FACTS

4. At least since 1996, Respondent has acted as a professional solicitor on behalf of charitable organizations by soliciting persons residing in Indiana for contributions.

5. In 1996, Respondent initially became registered as a professional fundraiser solicitor with the Division.

6. On June 6, 2004, Respondent signed an Assurance of Voluntary Compliance with the Division, agreeing among other things to comply with all of the requirements of the Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code § 23-7-8-1 *et seq.* The Assurance of Voluntary Compliance was approved by the Marion Circuit Court on July 13, 2004.

Fraternal Order of Police #153 (Lake Station Lodge)

7. On September 26, 2005, Respondent filed with the Division a solicitation notice regarding a campaign to be conducted on behalf of Fraternal Order of Police #153, which is located in Lake Station, Indiana.

8. On September 26, 2005, Respondent filed with the Division a copy of Respondent’s contract with Fraternal Order of Police #153, which is dated September 25, 2005.

9. According to Respondent’s solicitation notice with Fraternal Order of Police #153, the solicitation campaign was projected to start on October 1, 2005 and end on November 4, 2005.

10. Pursuant to Ind. Code § 23-7-8-2(f) and 11 IAC 3-7-2, Respondent was required to file an end-of-campaign financial report covering the entire campaign period by February 2, 2006.

11. Respondent failed to file with the Division, not later than ninety (90) days after Respondent's solicitation campaign with Fraternal Order of Police #153 ended, a financial report as required by Ind. Code § 23-7-8-2(f). The report was not filed until December 14, 2006.

Michigan City Firefighters Local #475 (2005 campaign)

12. On September 28, 2005, Respondent filed with the Division a solicitation notice regarding a campaign to be conducted on behalf of Michigan City Firefighters Local #475, which is located in Michigan City, Indiana.

13. On September 28, 2005, Respondent filed with the Division a copy of Respondent's contract with Michigan City Firefighters Local #475, which is dated September 14, 2005.

14. According to Respondent's solicitation notice with Michigan City Firefighters Local #475, the solicitation campaign was projected to start on October 3, 2005 and end on December 23, 2005.

15. Pursuant to Ind. Code § 23-7-8-2(f) and 11 IAC 3-7-2, Respondent was required to file an end-of-campaign financial report covering the entire campaign period by March 23, 2006.

16. Respondent failed to file with the Division, not later than ninety (90) days after Respondent's 2005 solicitation campaign with Michigan City Firefighters Local #475 ended, a financial report as required by Ind. Code § 23-7-8-2(f). The report was not filed until December 14, 2006.

Lake County Police Association Local #72

17. On January 10, 2005, Respondent filed with the Division a solicitation notice regarding a campaign to be conducted on behalf of Lake County Police Association Local #72, which is located in Crown Point, Indiana.

18. On January 10, 2005, Respondent filed with the Division a copy of Respondent's contract with Lake County Police Association Local #72, which is dated January 24, 2004.

19. According to Respondent's solicitation notice with Lake County Police Association Local #72, the solicitation campaign was projected to start on January 10, 2005 and end on December 23, 2005.

20. Pursuant to Ind. Code § 23-7-8-2(f) and 11 IAC 3-7-2, Respondent was required to file an end-of-campaign financial report covering the entire campaign period by March 23, 2006.

21. Respondent failed to file with the Division, not later than ninety (90) days after Respondent's solicitation campaign with Lake County Police Association Local #72 ended, a financial report as required by Ind. Code § 23-7-8-2(f). The report was not filed until December 14, 2006.

Portage Firefighters Local #3151

22. On January 7, 2006, Respondent filed with the Division a solicitation notice regarding a campaign to be conducted on behalf of Portage Firefighters Local #3151, which is located in Portage, Indiana.

23. On January 7, 2006, Respondent filed with the Division a copy of Respondent's contract with Portage Firefighters Local #3151, which is dated November 30, 2005.

24. According to Respondent's solicitation notice with Portage Firefighters Local #3151, the solicitation campaign was projected to start on January 2, 2006 and end on February 28, 2006.

25. Pursuant to Ind. Code § 23-7-8-2(f) and 11 IAC 3-7-2, Respondent was required to file an end-of-campaign financial report covering the entire campaign period by May 29, 2006.

26. Respondent failed to file with the Division, not later than ninety (90) days after Respondent's solicitation campaign with Portage Firefighters Local #3151 ended, a financial report as required by Ind. Code § 23-7-8-2(f). As of this date the report has not been filed.

Michigan City Firefighters Local#475 (2006 campaign)

27. On February 24, 2006, Respondent filed with the Division a solicitation notice regarding a campaign to be conducted on behalf of Michigan City Firefighters Local #475, which is located in Michigan City, Indiana.

28. On February 24, 2006, Respondent filed with the Division a copy of Respondent's contract with Michigan City Firefighters Local #475, which is dated February 23, 2006.

29. According to Respondent's solicitation notice with Michigan City Firefighters Local #475, the solicitation campaign was projected to start on February 27, 2006 and end on May 26, 2006.

30. Pursuant to Ind. Code § 23-7-8-2(f) and 11 IAC 3-7-2, Respondent was required to file an end-of-campaign financial report covering the entire campaign period by August 24, 2006.

31. Respondent failed to file with the Division, not later than ninety (90) days after Respondent's 2006 solicitation campaign with Michigan City Firefighters Local #475 ended, a

financial report as required by Ind. Code § 23-7-8-2(f). The report was not filed until December 14, 2006.

Pride in Portage

32. On February 24, 2006, Respondent filed with the Division a solicitation notice regarding a campaign to be conducted on behalf of Pride of Portage, which is located in Portage, Indiana.

33. On February 24, 2006, Respondent filed with the Division a copy of Respondent's contract with Pride of Portage, which is dated February 22, 2006.

34. According to Respondent's solicitation notice with Pride of Portage, the solicitation campaign was projected to start on February 24, 2006 and end on March 31, 2006.

35. Pursuant to Ind. Code § 23-7-8-2(f) and 11 IAC 3-7-2, Respondent was required to file an end-of-campaign financial report covering the entire campaign period by June 29, 2006.

36. Respondent failed to file with the Division, not later than ninety (90) days after Respondent's solicitation campaign with Pride of Portage ended, a financial report as required by Ind. Code § 23-7-8-2(f). The report was not filed until December 14, 2006.

Annual Registration Renewal

37. Pursuant to Ind. Code § 23-7-8-4(c) and 11 IAC 3-3-3, professional fundraisers that are registered with the Division are required to file an update with the Division and pay a fifty dollar (\$50) fee each year before July 2nd in order to renew their registration.

38. Pursuant to 11 IAC 3-2-1(b), any information required to be filed under Ind. Code § 23-7-8 shall not be considered filed with the Division if the information is incomplete, incorrect, or fails to comply with the requirements of Ind. Code § 23-7-8 and 11 IAC 3.

39. Pursuant to 11 IAC 3-3-5(2), a registered fundraiser who fails to file the registration update or file the renewal fee before September 2nd of each year must pay the initial registration fee of One Thousand Dollars (\$1,000.00) under IC 23-7-8-4(a) instead of the normal renewal fee of Fifty Dollars (\$50.00).

40. On July 14, 2006, Respondent attempted to file its professional fundraiser registration renewal application, but the form was not signed, dated, or notarized. Respondent paid Fifty Dollars (\$50.00) on that date for the attempted renewal.

41. Respondent failed to file an accurate and complete registration update before July 2, 2006. A completed renewal form was not filed until December 14, 2006.

VIOLATIONS

42. Respondent is a “professional solicitor” as defined by Indiana Code § 23-7-8-1.

43. Respondent must comply with 11 IAC 3-1-1 through 11 IAC 3-8-4.

44. Pursuant to 11 IAC 3-2-1(b), any information required to be filed under IC 23-7-8 shall not be considered filed with the Division if the information is incomplete, incorrect, or fails to comply with the requirements of IC 23-7-8 and 11 IAC 3.

45. By failing to file complete and timely financial reports with the Division containing information concerning Respondent’s campaigns with Fraternal Order of Police #153 (Lake Station Lodge), Michigan City Firefighters Local #475 (2005 campaign), Lake County Police Association Local #72, Portage Firefighters Local #3151, Michigan City Firefighters Local #475 (2006 campaign), and Pride of Portage, as referred to in paragraphs ten (10), fifteen (15), twenty (20), twenty-five (25), thirty (30), and thirty-five (35), above, Respondent violated 11 IAC 3-7-2 and Ind. Code § 23-7-8-2(f).

46. By failing to file complete and timely financial reports with the Division containing information concerning Respondent's campaigns with Fraternal Order of Police #153 (Lake Station Lodge), Michigan City Firefighters Local #475 (2005 campaign), Lake County Police Association Local #72, Portage Firefighters Local #3151, Michigan City Firefighters Local #475 (2006 campaign), and Pride of Portage, as referred to in paragraphs ten (10), fifteen (15), twenty (20), twenty-five (25), thirty (30), and thirty-five (35), above, Respondent may be assessed a fine, pursuant to 11 IAC 3-7-3(a), of up to One Hundred Dollars (\$100.00) for each month or part of a month that elapsed after the financial reports were due.

47. By failing to file an accurate and complete registration update with the Division before July 2, 2006, Respondent violated 11 IAC 3-3-3 and Ind. Code § 23-7-8-4(c).

48. By failing to file an accurate and complete registration update with the Division before July 2, 2006, Respondent may be assessed a fine, pursuant to 11 IAC 3-3-4, of up to One Hundred Dollars (\$100.00) for each month or part of a month after the date on which the registration update was due to be filed.

49. By failing to file an accurate and complete registration update with the Division before September 2, 2006, Respondent is required, pursuant to 11 IAC 3-3-5(2) to pay the initial registration fee of One Thousand Dollars (\$1,000.00) under IC 23-7-8-4(a) instead of the normal registration renewal fee of Fifty Dollars (\$50.00).

RELIEF

WHEREFORE, the Petitioner, State of Indiana, requests that the Division enter an order against Respondent for the following relief:

a. production and filing with the Division, pursuant to 11 IAC 3-7-1, of Respondent's end-of-campaign financial report with Portage Firefighters Local #3151, covering the campaign period from January 2, 2006 to February 28, 2006;

b. a fine, pursuant to 11 IAC 3-7-3(a), of One Hundred Dollars (\$100.00) for each month or part of a month, beginning on February 2, 2006 and ending on December 14, 2006, that Respondent failed to file a timely financial report for Respondent's campaign with Fraternal Order of Police #153 (Lake Station Lodge);

c. a fine, pursuant to 11 IAC 3-7-3(a), of One Hundred Dollars (\$100.00) for each month or part of a month, beginning on February 23, 2006 and ending on December 14, 2006, that Respondent failed to file a timely financial report for Respondent's 2005 campaign with Michigan City Firefighters Local #475;

d. a fine, pursuant to 11 IAC 3-7-3(a), of One Hundred Dollars (\$100.00) for each month or part of a month, beginning on February 23, 2006 and ending on December 14, 2006, that Respondent failed to file a timely financial report for Respondent's campaign with Lake County Police Association Local #72;

e. a fine, pursuant to 11 IAC 3-7-3(a), of One Hundred Dollars (\$100.00) for each month or part of a month, beginning on May 29, 2006, that Respondent has failed to file a timely financial report for Respondent's campaign with Portage Firefighters Local #3151;

f. a fine, pursuant to 11 IAC 3-7-3(a), of One Hundred Dollars (\$100.00) for each month or part of a month, beginning on August 24, 2006 and ending on December 14, 2006, that Respondent failed to file a timely financial report for Respondent's 2006 campaign with Michigan City Firefighters Local #475;

g. a fine, pursuant to 11 IAC 3-7-3(a), of One Hundred Dollars (\$100.00) for each month or part of a month, beginning on June 29, 2006 and ending on December 14, 2006, that

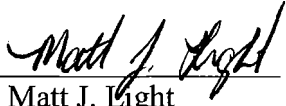
Respondent failed to file a timely financial report for Respondent's campaign with Pride of Portage;

h. a fine, pursuant to 11 IAC 3-3-4, of One Hundred Dollars (\$100.00) for each month or part of a month, beginning on July 3, 2006 and ending on December 14, 2006, that Respondent failed to file a complete registration update with the Division.

i. payment of Nine Hundred Fifty Dollars (\$950.00), which represents the One Thousand Dollar (\$1,000.00) payment due under 11 IAC 3-3-5(2) for registration renewals arriving after the renewal year ends, less the Fifty Dollar (\$50.00) payment that was submitted on July 14, 2006; and

j. all other just and proper relief.

Respectfully submitted,
STEVE CARTER
Indiana Attorney General
Atty. No. 4150-64

By: 
Matt J. Light
Deputy Attorney General
Atty. No. 25680-53

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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION CIRCUIT COURT

AVC NO. 04-022 **120010407 FLO 02453**

IN RE: COURTESY CALL PRODUCTIONS,)
 INC.,)
 Respondent.)

(40)

FILED

JUL 13 2004

Donna Ann Schell
CLERK OF THE
MARION CIRCUIT COURT

ASSURANCE OF VOLUNTARY COMPLIANCE

The State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Roger D. Smith, and the Respondent, Courtesy Call Productions, Inc., enter into an Assurance of Voluntary Compliance (Assurance), pursuant to Indiana Code §23-7-8-1 et seq.

Any violation of the terms of this Assurance constitutes prima facie evidence of a deceptive act. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties.

The parties agree:

1. Respondent, Courtesy Call Productions, Inc. ("Courtesy Call"), is an Indiana corporation, with a principal place of business at 105 Washington Street, Chesterton, Indiana, 46304.
2. Respondent is registered with the Consumer Protection Division, Office of the Attorney General as a professional solicitor, and solicits donations from persons in Indiana on behalf of charitable organizations.
3. The Consumer Protection Division of the Office of the Attorney General ("Division") has jurisdiction to investigate the matters hereinafter described, pursuant to the authority of Indiana Code §4-6-9-4 and Indiana Code §23-7-8-8.
4. The terms of this Assurance apply to and are binding upon Respondent, its

employees, agents, representatives, successors, and assigns.

5. Any term used in this Assurance that is explicitly defined by Indiana Code §23-7-8-1 has the meaning set forth by that statute.

6. Respondent will comply with all the requirements of the Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8-1 et seq., including, but not limited to, the following provisions:

a. Before acting as a professional fundraiser consultant or professional solicitor in the State of Indiana on behalf of any charitable organization, Respondent will register with the Indiana Attorney General's Consumer Protection Division.

b. Before acting as a professional solicitor or otherwise soliciting, Respondent will enter into a written contract with the charitable organization for which it is soliciting, and will file the contract with the Division. All such contracts will:

i. specify the percentage of gross contributions which the charitable organization will receive or the terms upon which a determination can be made as to the amount of the gross revenue from the solicitation campaign that the charitable organization will receive. The amount of gross revenue from the solicitation campaign that the charitable organization will receive must be expressed as a fixed percentage of the gross revenue or as a reasonable estimate of the percentage of the gross revenue. If a reasonable estimate is used, the contract must clearly disclose the assumptions or a formula upon which the estimate is based. If a fixed percentage is used, the percentage must exclude any amount that the charitable organization is to pay as expenses of the solicitation campaign, including the cost of the merchandise or services sold; and,

ii. disclose the average percentage of gross contributions collected on behalf of

charitable organizations that the charitable organizations received from Respondent for the three (3) years preceding the year in which the contract is formed.

c. Before beginning a solicitation campaign, Respondent will file a solicitation notice with the Division. The notice will include the following:

- i. a copy of Respondent's contract with the charitable organization;
- ii. the projected dates when soliciting will begin and end;
- iii. the location(s) and telephone number(s) from where solicitations will be conducted;
- iv. the name and residence address of each person responsible for directing and supervising the conduct of the campaign; and,
- v. if the solicitation is one in which a bona fide police, law enforcement, rescue squad, or fire department has authorized the use of the name "police", "law enforcement", "trooper", "rescue squad", "firemen", or "firefighter", the solicitation notice will include a copy of the written authorization given by such bona fide organization for which Respondent is soliciting.

d. Not later than ninety (90) days after a solicitation campaign has ended and not later than ninety (90) days after the anniversary of the commencement of a solicitation campaign lasting more than one (1) year, Respondent will file with the Division a financial report containing the following information:

- i. the total gross amount of money raised by Respondent and the charitable organization from donors;
- ii. the total amount of money paid to or retained by Respondent;
- iii. the total amount of money, excluding the amount identified in paragraph 6.d.ii

above, paid by the charitable organization as expenses as part of the solicitation campaign; and,

iv. the total amount of money received by the charitable organization after deducting the amounts identified in paragraphs 6.d.ii and 6.d.iii above.

7. Respondent will comply with Indiana Administrative Code, 11 IAC 3-1 et seq.

8. Respondent will comply with the Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-1 et seq.

9. Respondent agrees, pursuant to Ind. Code §23-7-8-2(f), to provide accurate and complete financial reports for the entire solicitation campaign to the Division not later than May 27, 2004 for the following campaigns:

a. Respondent's campaign with Fraternal Order of Police #76, which was to start on October 9, 2000 and end on December 23, 2003;

b. Respondent's campaign with Fraternal Order of Police #76, which was to start on May 13, 2002 and end on July 5, 2003;

c. Respondent's campaign with Fraternal Order of Police #83, which was to start on October 22, 2001 and ended in 2002;

d. Respondent's campaign with Fraternal Order of Police #121, which was to start on July 21, 2003 and end on October 1, 2003;

e. Respondent's campaign with Fraternal Order of Police #145, which was to start on August 14, 2000 and end on October 31, 2002;

f. Respondent's campaign with Fraternal Order of Police #145, which was to start on August 4, 2003 and end on September 26, 2003;

g. Respondent's campaign with Fraternal Order of Police #195, which was to start on May 27, 2002 and end on August 1, 2003;

h. Respondent's campaign with Indiana Troopers Association, Inc., which was to start on December 10, 2001 and end on December 23, 2002;

i. Respondent's campaign with Lake County Police Association #72, which was to start on March 11, 2002 and end on December 23, 2003; and

j. Respondent's campaign with LaPorte Firefighters Association Local 363, which was to start on January 7, 2002 and end on March 1, 2003.

10. Respondent agrees that all information Respondent provides in response to paragraph 9 will comply in all aspects with the Professional Fundraiser Consultant and Solicitor Registration Act, Ind. Code §23-7-8 et seq.

11. Upon execution of this Assurance, Respondent will pay a total of One Thousand Dollars (\$1,000.00) to the Office of the Indiana Attorney General as costs of the Division's investigation of this matter.

12. Respondent will not represent that the Office of the Indiana Attorney General approves or endorses its past or future business practices, or that execution of this Assurance constitutes such approval or endorsement.

13. Respondent will fully cooperate with the Office of the Indiana Attorney General in the resolution of any future written complaints the Consumer Protection Division receives.

14. The Office of the Indiana Attorney General will file this Assurance with the Circuit Court of Marion County. The Court's approval of this Assurance will not act as a bar to any private right of action.

DATED this 6 day of June, 2004.

STATE OF INDIANA

RESPONDENT

STEVE CARTER
Attorney General of Indiana

COURTESY CALL PRODUCTIONS,
INC.

by: Roger D. Smith
Roger D. Smith
Deputy Attorney General
Attorney No. 23152-49

by: Scott Stoddard
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Title: PRESIDENT

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APPROVED this 13 day of July, 2004.

Theodore M. Sosier
Judge, Marion County Circuit Court

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